

REMARKS

I. THE INFORMATION DISCLOSURE STATEMENT

Applicants have looked for a copy of the cited reference, i.e., Bernard et al., L'Inserm, 33:145-146 (1991), and believe that the citation may have been in error. Applicants will continue to review and provide a reference if uncovered in response to the Office's request.

II. THE REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

The final Office Action rejects claim 34 under 35 U.S.C. § 112, first paragraph. In particular, the Office Action asserts that the specification does not provide support for treating a subject undergoing radiation therapy.

Applicants respectfully submit that as of the filing date of the above-identified application, one skilled in the art would understand that the claimed invention could be employed to treat a subject undergoing radiation therapy. To demonstrate the knowledge in the art, Applicants submit an article to Baynes et al., Bone marrow and peripheral blood hematopoietic stem cell transplantation: focus on autografting, Clin Chem., 46(8 Pt 2):1239-51 (2000), which focuses on certain of the principles involved in high-dose chemotherapy and radiation therapy along with autologous hematopoietic stem cell transplantation for the treatment of certain malignancies.

Reconsideration and withdrawal of the rejection of claim 34 under 35 U.S.C. § 112, first paragraph, are respectfully requested.

III. THE REJECTION UNDER 35 U.S.C. § 103

The final Office Action rejects claims 2-12 and 15-34 under 35 U.S.C. § 103 as being obvious over U.S. Patent No. 6,013,067 in view of U.S. Patent No. 5,869,451.

In response, neither of the cited references disclose or suggest the particularly claimed use, which employs the particularly claimed TPO compound. Applicants submit a copy of corresponding application no. 2005-0137133 A1, wherein the specification compares the 1-Nal compound to the claimed 2-Nal compound and shows that the claimed 2-Nal compound is different/less potent than the 1-Nal compound. See paragraphs [0079]-[0082]. As disclosed application no. 2005-0137133 A1, a less potent compound may provide a less drastic stimulus to the target cell, which could reduce the risk of side effects caused by overstimulation of the target cell. See paragraphs [0079]-[0082].

Reconsideration and withdrawal of the rejection of claims 10-12 and 50-55 under 35 U.S.C. § 103 over De Serres et al. in view of the '864 patent are respectfully requested.

IV. CONCLUSION

Early consideration and prompt allowance of the claims are respectfully requested. Should the Office require anything further, it is invited to contact Applicants' representative at the

telephone number below. Should additional fees be necessary in connection with the filing of this paper, the Commissioner is hereby authorized to charge our Deposit Account No . 10-0750/PRD-2110-USANP/LAD for any such fees.

Respectfully submitted,

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Attachment:
Baynes et al.
2005-0137133 A1